

OFFICE OF THE DISTRICT PROSECUTOR
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
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Attorneys for Petitioner
South Coast Air Quality Management District

**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

vs.

STATIONARY DIESEL-FUELED INTERNAL
COMBUSTION ENGINE FACILITIES, DOES 1-
100

Respondents.

Case No.

**PETITION FOR STIPULATED GROUP
ORDER FOR ABATEMENT; PROPOSED
ORDER**

District Rule 1470

DATE:

TIME: 9:00 a.m.

PLACE: 21865 Copley Drive
Diamond Bar, CA 91765

Petitioner SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT states:

1. Petitioner is a body corporate and politic established and existing pursuant to Health and Safety Code §40000, et seq. and §40400, et seq., and is the sole and exclusive local agency with the responsibility for comprehensive air pollution control in the South Coast Basin.

2. Respondent currently owns, operates, leases or licenses for operation one or more Stationary Diesel-Fueled Internal Combustion or Other Compression Ignition Engines (ICE), which are or will be in violation of District Rule 1470 for diesel particulate matter (PM) and other air pollutants (i.e. NOx, HC, CO. etc.).

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1 3. On November 8, 2004, the California Air Resources Board (CARB) adopted a new regulation,
2 Air Toxics Control Measure (ATCM) for Stationary Compression-Ignition Engines, to control emissions
3 of diesel PM and other air pollutants from stationary compression-ignition engines, particularly diesel-
4 fueled engines. The regulation became effective on December 8, 2008. The regulation is contained in
5 Section 93115, Title 17, California Code of Regulations (CCR). The purpose of this regulation is to
6 reduce the public's exposure to diesel PM and other air pollutants by establishing Best Available Control
7 Technology (BACT), which includes emission standards and operational requirements, for stationary
8 compression ignition engines that operate or are sold for use in California.

9 4. The regulation supports the "Risk Reduction Plan to Reduce Particulate Matter Emissions
10 from Diesel-Fueled Engines and Vehicles," which was adopted by the CARB on September 30, 2000.
11 This regulation was subsequently amended on September 18, 2007 to clarify certain requirements of this
12 regulation, which became effective on October 18, 2007. Under this regulation, emergency standby
13 engines must meet after-treatment based Tier 4 interim emission standards.

14 5. CARB recently approved the amendments to the ATCM for Stationary Compression-Ignition
15 Engines on October 21, 2010. The primary purpose of the amendments was to remove the Tier 4 emission
16 limits for emergency standby engines and to limit diesel particulate matter emissions for all sizes of
17 engines to 0.15 gram/bhp-hr. These amendments must be reviewed and approved by the Secretary of
18 State, Office of Administrative Law (OAL), before they become effective. This OAL review process was
19 completed and approved on May 19, 2011 and became effective immediately upon approval.

20 6. Due to the timing issues with the OAL approval process and immediate implementation of the
21 ATCM amendments, CARB posted a Regulatory Advisory in November 2010. (A true and correct copy
22 of CARB's November 2010 Amendments to Requirements for Stationary Compression-Ignition (Diesel)
23 Engines is attached hereto as Exhibit A.) This Regulatory Advisory summarizes the amendments to the
24 ATCM and states that during the transition period from January 1, 2011 to when the amended ATCM
25 becomes effective, CARB will exercise its enforcement discretion and not enforce the more stringent Tier
26 4 interim standards for new emergency standby engines. The ATCM prior to the amendments approved
27 by OAL on May 19, 2011 specifies that beginning January 1, 2011 and after, emergency standby engines

28 ///

1 175 hp or greater must meet Tier 4 interim engine emission requirements which are more stringent then
2 Tier 3.

3 7. **District Rule 1470 (c)(2)(C)(iv)(I)** requires that emissions of hydrocarbons, oxides of
4 nitrogen, non-methane hydrocarbon + oxides of nitrogen, and carbon monoxide,” . . . must meet the
5 standards for off-road engines of the same model year and maximum rated power as specified in the Off-
6 Road Compression-Ignition Engine Standards (Title 13, CCR, Section 2423).” On and after January 1,
7 2011 for compression-ignition engines 175 hp or greater must meet Tier 4 requirements.

8 8. **District Rule 1470(c)(3)(C)(i)(I)** regulates requirements for stationary diesel fueled internal
9 combustion and other compression ignition engines. The AQMD adopted Rule 1470 on April 2, 2004 to
10 implement the ATCM as well as making some requirements more stringent than the ATCM, such as when
11 an engine is to be located on a school or those located within 100 meters of a school. This rule was
12 subsequently amended on March 4, 2005, November 3, 2006 and June 1, 2007 to implement various
13 amendments that CARB made to the ATCM.

14 9. Consistent to the current requirements of CARB ATCM, Rule 1470 currently requires that
15 emergency standby engines 50 bhp or greater up to < 75 bhp must meet Tier 4 interim emission standards
16 effective January 1, 2008 and engines 175 bhp or greater must meet the Tier 4 interim emission standards
17 effective January 1, 2011. In addition, engines 75 bhp or greater but < 175 bhp must meet the Tier 4
18 interim emission standards effective January 1, 2012.

19 10. Under the current requirements of Rule 1470 and other Rules and Regulations, the AQMD can
20 only issue Permits to Construct to emergency standby engines that meet the Tier 4 interim emission
21 standards.

22 11. AQMD intends to amend Rule 1470 to incorporate some of amendments to ATCM that have
23 been approved by CARB. Rule 1470 cannot be amended until such time that the ATCM amendments have
24 become effective (beginning May 19, 2011).

25 12. At this time, AQMD is considering amendments to Rule 1470 to align with the amended
26 ATCM approved by OAL for all pollutants except diesel PM. The initial Proposed Amended Rule (PAR)
27 1470 will include a requirement to reduce PM emissions provided that engines meet emission levels

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generally applied to Tier 3 or Tier 2 (only for 750 bhp or greater engines) for other pollutants (i.e. NOx, HC, CO. etc.).

13. PAR 1470 is currently scheduled to be heard by AQMD's Governing Board in September 2011.

14. In accordance with the AQMD's PAR 1470 to align with the amended CARB ATCM approved by OAL for all pollutants except diesel PM, the AQMD petitions the Hearing Board for a group Stipulated Order for Abatement as described below to allow additional time for Diesel-Fueled Internal Combustion Engine Facilities to operate an emergency standby engine that meets the Tier 3 or Tier 2 (only for 750 bhp or greater engines) emission standards even though the Permit to Construct for the engine requires compliance with Tier 4 interim emission standards until December 31, 2011.

15. Petitioner seeks a stipulated Order for Abatement to require each Respondent, to cease violation of the Tier 4 interim emission standards, which is embodied in Rule 1470, by either ceasing its non-compliant operations on or before December 31, 2011 or by taking the following actions:

- a) Comply with the proposed amendments to Rule 1470 that are approved by the Governing Board at the earliest feasible date but no later than December 31, 2011, and
- b) Notify the District within five (5) days of full compliance with this Order in the manner specified by the District.

16. This Group Order for Abatement is not intended to be nor will it act as a variance as to any Respondent.

17. Respondents' operation under the proposed Order is not expected to result in a violation of Health and Safety Code § 41700.

WHEREFORE, the District prays that the Hearing Board issues an Order for Abatement in substantially the same form as attached.

Dated: June ___, 2011

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
DISTRICT PROSECTUOR'S OFFICE
NANCY S. FELDMAN, District Prosecutor

By: _____
Nicholas A. Sanchez, Senior Deputy District Prosecutor
Attorney for Petitioner

ORDER (Proposed)

WHEREAS, expeditious compliance with Title 17, CCR, Section 93115, requirements to reduce the public's exposure to diesel PM and other air pollutants by establishing BACT, which includes emission standards and operational requirements, for stationary compression ignition engines that operate or are sold for use in California is beneficial to the public;

WHEREAS, the South Coast Air Basin is in serious non-attainment of the federal health-based standard for ozone;

THEREFORE, pursuant to District Rule 806(b), and the Stipulations between the Executive Officer and each of the Respondents, individually listed in the attached Exhibit, the Hearing Board of the South Coast Air Quality Management District orders each listed Respondent to cease operating Stationary Diesel-Fueled Internal Combustion or Other Compression Ignition Engines that do not meet the more stringent Tier 4 Standards for new emergency standby engines, or, in the alternative, comply with the following conditions:

1. Respondents shall operate an AQMD permitted emergency standby engine that meets the Tier 3 or Tier 2 (only for 750 bhp or greater engines) emission standards according to permit conditions. Once the amended ATCM becomes effective and PAR 1470 is approved by the AQMD's Governing Board, Respondents shall comply with the Governing Board approved PAR 1470 requirements, at the earliest feasible date but no later than December 31, 2011.

2. Within 5 calendar days after the Respondent complies with all the emission standards and operational requirements of the Governing Board approved PAR 1470, the Facility shall notify the District of the date that they have achieved full compliance.

The Hearing Board shall retain jurisdiction over this matter until March 1, 2012 at which time this Order for Abatement, if it has not been properly extended, shall expire.

IT IS SO ORDERED.

FOR THE BOARD: _____

DATED: _____

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6 Attorneys for Petitioner
7 South Coast Air Quality Management District

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9 BEFORE THE HEARING BOARD OF THE
10 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

11 In the Matter of

12 SOUTH COAST AIR QUALITY
13 MANAGEMENT DISTRICT,

14 Petitioner,

15 vs.

16 Stationary Diesel-Fueled Internal Combustion
17 Engine Facilities, Does 1-100

18 Respondents.

Case No.

**DECLARATION OF STATIONARY
DIESEL-FUELED INTERNAL
COMBUSTION ENGINE FACILITY**

DATE:

TIME: 9:00 a.m.

PLACE: 21865 Copley Drive
Diamond Bar, CA 91765

19
20 I, _____, declare:
21 (Print Your Name)

22 1. I am the authorized representative of

23
24 _____
(Name of Stationary Diesel-Fueled Internal Combustion Engine Facility (ICEF))

25
26 I have full authority to agree to and sign this Stipulation on behalf of this ICEF and legally bind it to the
27 statements and agreements contained in this Stipulation.

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1 This ICEF has the following:

2 Address: _____

3 _____
4 Facility ID No.: _____

5 My contact information is the following:

6 Address: _____

7 _____
8 _____
9 Telephone: _____

10 Fax: _____

11 E-mail: _____

12 2. I request the ICEF be substituted as a Respondent in this pending Petition for Stipulated Group
13 Order for Abatement (Petition) proceeding. I further agree on behalf of the ICEF that it:

14 (a) has been legally and properly served with a copy of this Petition and attached Proposed
15 Order;

16 (b) agrees to the facts listed in the Petition;

17 (c) **knowingly and intelligently waives its rights to receive notice of the hearing;**

18 (d) agrees to have this matter placed on the Hearing Board's consent calendar;

19 (e) **knowingly and intelligently waives all rights to be present at the hearing upon**
20 **which the Hearing Board may issue its Order for Abatement;** and

21 (f) agrees to be bound by the terms of the attached Proposed Order if issued, and
22 acknowledges that failing to comply with those terms may subject the ICEF to civil
23 penalties of up to \$25,000 per day and/or shut-down of the ICE.

24 3. To allow this matter to proceed on the Hearing Board's consent calendar, the ICEF and the
25 SCAQMD further stipulate and agree, as follows:

26 (a) This matter may be placed on the Hearing Board's Consent Calendar at 9 a.m. on any
27 date provided by the Hearing Board, such date being publicly available prior to the
28 hearing.

1 (b) This Stipulation may be admitted into evidence regarding this matter.

2 (c) The ICEF and the SCAQMD have agreed on the Proposed Order for execution by the
3 Hearing Board, a copy of which is attached to the Petition.

4 (d) SCAQMD may provide additional evidence at the Consent Calendar proceeding as the
5 Hearing Board may request to enable it to issue the Proposed Order.

6 (e) No nuisance violation under Health and Safety Code Section 41700 is expected to result
7 from operation of this ICE while under the requested Order for Abatement.

8 4. By initializing here _____, I certify that my facility is currently permitted to operate equipment
9 that is certified under District Rule 1470.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
11 correct.

12
13 Executed on _____, 2011 at _____, California
14 (date) (insert city)

15 _____
16 (signature of authorized representative)

17 STIPULATED TO:

18 South Coast Air Quality Management District

19
20 By: _____
21 Nicholas A. Sanchez, Senior Deputy District Prosecutor
22 Attorney for Petitioner
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25
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27
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